IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 1631 of 2005

Between:

Mohd. Hussain, S/o. Mohd. Jaffar,
R/o. 12-2-37/1, Zeba Bagh, Asifnagar, Hyderabad.

..... PETITIONER

AND

The Regional Passport Officer, Regional Passport Office, Secunderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue the writ or order more particularly writ of mandamus declaring the action of the respondent not considering the representation of the petitioner for correction of date of birth in the passport and not making the change of date of birth in pass port arbitrary, illegal and inhuman and apart from the letter and spirit of constitution of India and consequently direct the respondent to correct the date of birth as 06-08-1980 instead of 05-08-1978 in petitioners passport No. A5900405 issued on 03-08-1998 and issue the fresh passport to the petitioner and pass such other order.

Counsel for the Petitioner: MOHD.MUMTAZ PASHA

Counsel for the Respondent: Mr. P. Rakesh, Additional Standing Counsel for Central Government.

The Court made the following:

O R D E R:

Heard the learned counsel for the petitioner and the learned standing counsel for the Central Government appearing for the respondent-Passport Authority.

It is the case of the petitioner that his actual date of birth is 06-08-1980, but in the passport issued to him by the respondent, his date of birth was wrongly mentioned as 05-08-1978, and that though he represented to the respondent to alter his date of birth in the Passport and issue fresh passport, the respondent is refusing to entertain the application on the ground that they have no power to make correction of date of birth in the passport. The petitioner, therefore, filed the present writ petition praying to direct the respondent to entertain his application for correction of date of birth and issue fresh passport.

It is required to notice that there is no provision under the Passports Act, 1967, which empowers the Regional Passport Officer to correct entries in the Passport. However, pursuant to the judgment of the High Court of Judicature at Bombay, in W.P.No.1072 of 2000, the Government of India issued instructions/clarifications in Circular dated 18-04-2001, which are to the following effect:

" (a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth is the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, effect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth."

As of today, if any request for correction of date of birth in the passport is made, the Passport Issuing Authority is required to follow the aforementioned instructions. In that view of the matter, I deem it appropriate to dispose of the writ petition with the following directions:

The respondent is directed to receive the application of the petitioner for correction of date of birth in the Passport/issuance of fresh passport, and process the same after verifying the genuineness or otherwise thereof basing on the documents the petitioner may file in support of his case for change of date of birth, in the light of the aforementioned guidelines, and pass appropriate orders.

With the above directions, the writ petition is disposed of. No costs.

(G. ROHINI, J)

Date:04-02-2005

Note:

Issue C.C. by Monday.

(B/o)

ghn

To

1. The Regional Passport Officer, Regional Passport Office, Secunderabad.
2. Two CD copies.